

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DR. MORGAN REYNOLDS on behalf §  
of the UNITED STATES OF AMERICA §

Plaintiff, §

vs. §

SCIENCE APPLICATIONS §  
INTERNATIONAL CORP.; APPLIED §  
RESEARCH ASSOCIATES, INC.; §  
BOEING, NuSTATS; COMPUTER §  
AIDED ENGINEERING ASSOCIATES, §  
INC.; DATASOURCE, INC.; §  
GEOSTAATS, INC.; GILSANZ §  
MURRAY STEFICEK LLP; HUGHES §  
ASSOCIATES, INC.; AJMAL ABBASI; §  
EDUARDO KAUSEL; DAVID PARKS; §  
DAVID SHARP; DANIELE VENEZANO; §  
JOSEF VAN DYCK; KASPAR WILLIAM; §  
ROLF JENSEN & ASSOCIATES, INC.; §  
ROSENWASSER/GROSSMAN §  
CONSULTING ENGINEERS, P.C.; §  
SIMPSON GUMPERTZ & HEGER, INC.; §  
S. K. GHOSH ASSOCIATES, INC.; §  
SKIDMORE, OWINGS & MERRILL, §  
LLP; TENG & ASSOCIATES, INC.; §  
UNDERWRITERS LABORATORIES, §  
INC.; WISS, JANNEY, ELSTNER §  
ASSOCIATES, INC.; AMERICAN §  
AIRLINES; SILVERSTEIN PROPERTIES; §  
and UNITED AIRLINES, §

Defendants. §

Case No. 07CV4612 (GBD)

**GAIL D. ZIRKELBACH'S AFFIDAVIT  
IN SUPPORT OF  
APPLIED RESEARCH ASSOCIATES, INC.'S  
MOTION TO DISMISS PURSUANT TO  
FED. R. CIV. P. 12(b)(1) AND 9(b)**

Gail D. Zirkelbach, being duly sworn, hereby deposes and says as follows:

1. I am a member of Jackson Kelly PLLC, attorneys of record for Defendant Applied Research Associates, Inc. in the captioned case.
2. I am admitted *pro hac vice* in this matter.

3. I submit this Affidavit in Support of Applied Research Associates, Inc.'s Motion to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) and 9(b), solely to submit certain documents for consideration by the Court, all of which are public records or otherwise publicly available.

4. Attached as Exhibit A is a true and correct copy of the Complaint in Civil Action No. 07-cv-3314 (GBD), *United States ex rel. Dr. Judy Wood v. Applied Research Associates, Inc., et al.*, United States District Court for the Southern District of New York, dated April 25, 2007.

5. Attached as Exhibit B is a true and correct copy of a letter from Jerry V. Leaphart, Counsel for Relator to Judge George B. Daniels, dated August 15, 2007.

6. Attached as Exhibit C is a true and correct copy of the Request for Correction submitted by Dr. Judy Wood to the National Institute of Standards and Technology, dated March 16, 2007.

7. Attached as Exhibit D is a true and correct copy of the First Amended Complaint in Civil Action No.: 07-cv-3623 (VM), *United States ex rel. Edward F. Haas v. Carlos M. Gutierrez, et al.*, United States District Court for the Southern District of New York, dated May 9, 2007.

8. Attached as Exhibit E is a true and correct copy of the Complaint in Civil Action No. 06-CV-01770-JDT-TAB, *Ryan v. Underwriters Laboratories, Inc.*, United States District Court for the Southern District of Indiana, dated November 16, 2006.

9. Attached as Exhibit F is a true and correct copy of the Request for Correction submitted by Dr. Morgan Reynolds to the National Institute of Standards and Technology, dated March 8, 2007.

Dated: October 4, 2007  
Denver, Colorado

**s/ Gail D. Zirkelbach**

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Gail D. Zirkelbach

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER )

Subscribed and sworn to before me this 4th day of October 2007, by Gail D. Zirkelbach.

**s/ Laura B. Hackney**

Notary Public

My Commission expires: May 16, 2010

[SEAL]